



GOVERNMENT OF INDIA

Chandigarh Administration Gazette

Published by Authority

NO. 118] CHANDIGARH, THURSDAY, SEPTEMBER 09, 2021 (BHADRA 17, 1943 SAKA)

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 2nd September, 2021

No. 13/1/9385-HII(2)-2021/9721.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 21/2017, dated 28.07.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT / GENERAL SECRETARY, CHANDIGARH GOVT. TRANSPORT WORKER'S UNION, C/O SHRI D. R. KAITH, CHAMBER NO.104, DISTRICT COURT, SECTOR 43, UNION TERRITORY CHANDIGARH IN RESPECT OF SHRI KRISHAN CHAND - CONDUCTOR NO.305 (Workers' Union)

AND

DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, CHANDIGARH
(Management).

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9385-HII(2)-2017/6671, dated 20.07.2017.

AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/9385-HII(2)-2017/6671, dated 20.07.2017 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

"Whether the demand raised in the demand notice dated 30.08.2013 by President/General Secretary, Chandigarh Govt. Transport Worker's Union, C/o Shri D. R. Kaith, Chamber No.104, District Court, Sector 43, Union Territory Chandigarh And The Divisional Manager, Chandigarh Transport Undertaking, Chandigarh, are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. The President/General Secretary, Chandigarh Govt. Transport Worker's Union (*hereinafter "workers' union"*) had served demand notice dated 30.08.2013 in respect of Shri Krishan Chand - Conductor No.305, (*hereinafter called "workman"*) upon the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh (*hereinafter called "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter called "ID Act"*). Upon notice, the workers' union appeared through its representative. Demand notice was ordered to be treated as statement of claim. Case of the worker's union

(641)

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in brief is that the workman was charge-sheeted as per charge sheet dated 18.04.2001 on the allegation that his bus was checked at Harbatpur on route from Chandigarh to Dehradun and some of the passengers were found without ticket. The workman replied to the charge sheet and specifically stated that the allegations are totally false and the workman had issued tickets to all the passengers. Without appreciating the reply of the workman the punishing authority appointed an Inquiry Officer. The checking staff did not record the statements of passengers, who found without tickets and cash of the workman was also not checked, as per instructions issued from time to time. The workman never instigated the passengers or misbehaved with the checking staff. Since false report was being made by the checking staff against the workman that action of the checking staff was protested by the passengers and they were requesting the checking staff to record their statement and not to make false report against the workman. Un-punched tickets were taken by the checking staff without the consent of the workman. The Inquiry Officer did not conduct the inquiry in a fair and proper manner. The case was fixed for recording the evidence of the departmental witnesses on 30.09.2005 but summons could not be served so case was adjourned to 20.10.2005 and on 20.10.2005 the Inquiry Officer was on leave so inquiry was adjourned to 04.11.2005. After fixing the inquiry on 04.11.2005 it was revealed that 04.11.2005 is holiday so date was changed at the back of the workman and the same was fixed for 18.11.2005 and no notice of this date was given to the workman. The workman was on medical leave upto 14.11.2005 so no notice was received by the workman for 04.11.2005 as well as for 18.11.2005. The Inquiry Officer alleged to have recorded the evidence of Inspector Nachhattar Singh on 18.11.2005 though the same is not reflected in the zimni order dated 18.11.2005 and submitted inquiry report on 23.11.2005 though she had herself adjourned the case for 24.11.2005. The inquiry report is non-speaking in nature and the Inquiry Officer has not discussed the allegations in charge sheet, evidence of witnesses. PW Nachhattar Singh had nowhere stated in his evidence against the workman as alleged to be recorded before the Inquiry Officer. The Inquiry Officer recorded in her report that the workman was proceeded *ex parte* but inquiry file as well as zimni order nowhere states that the workman was never served and proceeded against *ex parte*. Without supplying the copy of inquiry report and without affording opportunity of defence and to make representation against the inquiry report the punishing authority straight away called the workman for personal hearing. During personal hearing the workman again explained his defence but without appreciating the same punishing authority passed a punishment order dated 24.11.2006 / 09.01.2007 whereby three increments of the workman were stopped with cumulative effect and it was further ordered that the workman shall not be entitled for pay above the subsistence allowance. The workman filed an appeal against the illegal order of punishment dated 24.11.2006/09.01.2007 to the appellate authority but the appellate authority without taking into consideration the grounds of appeal statement of Inspector recorded during inquiry as well as written submission submitted by the workman dismissed the appeal of the workman. The workman was called for personal hearing on 21.02.2012 but no proper hearing was given to the workman so he submitted written submission on 21.03.2012 which was duly received in the office of the appellate authority on 21.03.2012 but the same was also not considered at all. Order of the appellate authority is illegal & against the Rule 19 of Punjab Civil Service (Punishment & Appeal) Rules. Ultimately, it is prayed that the order of punishment dated 24.11.2006 / 09.01.2007 and the order of the appellate authority dated 21.02.2012 / 14.09.2012 be set aside order and monetary benefit be released to the workman along with interest at the rate 12% per annum.

3. The management contested the case of the workman and filed written statement raising preliminary objection that the present reference is highly belated as punishment order was passed on 24.11.2006 & 09.01.2007 whereas the present case is being filed in the year 2017 i.e. after 10 years approximately. On merits, it is pleaded that the workman chargesheeted by the management *vide* Memo No.5730/DT/TA-I/CTU/2K1 dated 18.04.2001 for misappropriation of ₹ 80/- by way of not issuing tickets to ten passengers, who boarded the bus at Ponta Sahib for Harbatpur and had paid ₹ 80/- at the rate 8/- each as fare to the workman but it is the workman, who had not issued tickets to those passengers while he was on duty with bus No.CH-01-G-8161 of Route No.90 (Chandigarh to Dehradun) on 09.02.2001. Accordingly, the inspectorate staff made a report *vide* their report dated 12.02.2001 and after considering their report, the workman was chargesheeted. The workman was also asked to submit reply to the charge sheet which he had submitted *vide* his reply dated 20.06.2001 and

the same was duly considered by the competent authority but the same was found unsatisfactory. Admittedly, the statement of without ticket passengers could not be recorded nor cash of the workman was checked as the workman started altercation with the checking staff and created a unwanted situation while using unparliamentarily language against the Inspectors and not only this, the workman had also instigated the passengers against the checking staff. No false report was made by the Inspectors and un-punched tickets were given by the workman himself on his own accord by admitting his fault on the spot. The inquiry was conducted in a fair & proper manner. It is the workman who intentionally disappeared from the departmental inquiry in spite of that he was well aware about the inquiry proceedings. The statement was recorded by the Inquiry Officer in the preliminary inquiry on 29.01.2003 but the workman appeared only on the few occasions as he was not cooperating with the Inquiry Officer in spite of a number of opportunities granted to him and at last the Inquiry Officer had to proceed the departmental inquiry *ex parte* in absence of the workman as he had not been appearing in the departmental inquiry after 27.10.2003. After 27.10.2003 the inquiry was fixed for 23.12.2003 and thereafter on 25.03.2004, 10.03.2005, 19.04.2005, 20.10.2005, 04.11.2005 & 18.11.2005 and ultimately when the workman was not appearing in the departmental inquiry, the Inquiry Officer had to record the statement of the prosecution witness in the absence of the workman as the workman was intentionally not appearing in the departmental inquiry. He was adopting the delay tactic and was not cooperating with the Inquiry Officer. Though he was on the medical leave yet the departmental inquiry was fixed for 18.11.2005 and he was on medical leave upto 14.11.2005 and if he was on medical leave then it does not mean that he will not appear in the departmental inquiry. The Inquiry Officer had recorded her findings after considering all the facts, record and evidence of the case. The findings of the Inquiry Officer was duly supplied to the workman *vide* Memo No.21245 dated 27.12.2005 for calling representation from the workman. It was a workman, who did not make any representation or reply against findings of the Inquiry Officer. Before passing the impugned order, the workman was heard properly by the punishing authority by giving an opportunity of personal hearing but the workman did not pursue his case properly. He was blank at the time of personal hearing and could not prove his innocence and rebut the findings of the Inquiry Officer so punishment order dated 24.11.2006 is quite just, legal & right and liable to be upheld. Appeal against the punishment order was preferred by the workman, which was disposed off by the appellate authority by passing a reasoned and speaking order after adopting the due procedure of law. Order passed by the appellate authority is also just, legal and right. Other averments of the case of the workers' union were denied and ultimately, it is prayed that the present claim statement be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the demand raised in the demand notice dated 30.08.2013 by the workers' union is genuine & justified, if so, to what effect and to what relief the worker's union / worker is entitled to, if any ? OPW
2. Whether the claim of the workers' union is bad on account of delay & latches ? OPM
3. Relief.

5. In support of the case, the workers' union examined the workman as AW1. Learned representative for the workers' union closed the evidence. On the other hand, learned Law Officer for the management tendered into evidence inquiry file and closed the evidence.

6. I have heard learned representative for the workers' union and learned Law Officer for the management and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No.1 :

7. In order to prove this issue learned representative for the workers' union examined the workman as AW1, who deposed that he was chargesheeted as per charge sheet dated 18.04.2001 on the allegations that his bus was checked at 10.10.1999 at Harbatpur on route from Chandigarh to Dehradun. He replied to the charge sheet by stating that the allegations are totally false as he had issued tickets to all the passengers but without

appreciating his reply the punishing authority appointed the Inquiry Officer. He further deposed that the checking staff did not record the statements of passengers, who were without tickets and his cash was not checked as per instructions issued from time to time. He had not instigated the passengers or misbehaved with the checking staff. False report was made by the checking staff. The Inquiry Officer had not conducted the inquiry in a fair & proper manner. He further deposed that the case was fixed for recording the evidence of the departmental witnesses on 30.09.2005 but summons could not be received and the case was adjourned to 20.10.2005. On 20.10.2005 the Inquiry Officer was on leave and inquiry was adjourned to 04.11.2005 and after fixing the inquiry 04.11.2005 it was revealed that 04.11.2005 was holiday thereafter the date was changed at his back. He was on medical leave on after 14.11.2005 but no notice was received by himself for 04.11.2005 as well as for 18.11.2005. He further deposed that from the zimni order dated 18.11.2005 it is clear that he was not served and was on medical leave and he was never proceeded against *ex parte*. As per the information received under the Right to Information Act the Inquiry Officer alleged to have recorded the evidence of Inspector Shri Nachhattar Singh on 18.11.2005 but the same is not reflected in the zimni order dated 18.11.2005 and submitted the inquiry report on 23.11.2005 though she had herself adjourned the case for 24.11.2005. He further deposed that he was not given chance to cross-examine the witness and lead defence and without passing any order of *ex parte* proceeding against him and the Inquiry Officer submitted his report, which is against the rules. The inquiry report is non-speaking as the Inquiry Officer had not discussed the allegations in charge sheet and evidence of witnesses. The Inquiry Officer recorded in her report that he was proceeded against *ex parte* but inquiry file as well as in zimni order nowhere states that he was ever served or proceeded against *ex parte*. He was not supplied the copy of inquiry and not afforded the opportunity of defence and to make a representation against the inquiry report. He appeared for personal hearing before the punishing authority and explained his defence but without appreciating the same the punishing authority passed the order dated 24.11.2006 / 09.01.2007 whereby three increments of the workman were stopped with cumulative effect and it is further ordered that he shall not be entitled for pay above the subsistence allowance for the period of suspension. He further filed the appeal against the order of punishment but the appellate authority without taking into consideration the ground of appeal, statement of Inspector recorded during the inquiry. He was called for personal hearing but no proper hearing was given to himself and passed the order. Order of the appellate authority is illegal and against Rule 19 of the Punjab Civil Service (Punishment & Appeal) Rules. The appellate authority have not complied with the provisions of Rule 19 so order was passed by the appellate authority on 14.09.2012 is without application of mind.

8. Learned representative for the workers' union has argued that the workman was chargesheeted on 18.04.2001 and checking was not conducted as per instructions Mark 'A' to 'C'. The statement of alleged passengers found without tickets were recorded at the time of checking. Cash of the workman was not checked. The inquiry was not conducted as per rules. There is no violation of Rule 11 of Punjab Civil Service (Punishment & Appeal) Rules as copy of the inquiry report was not supplied to the workman. He placed reliance on citations **Makhan Singh Versus The State of Punjab 2009(3) SCT 123 (P&H) and Chairman, Life Insurance Corporation of India & Others, (2013)6 SCC 530** and prayed for deciding this issue in favour of the worker's union and against the management.

9. On the other hand, learned Law Officer for the management tendered into evidence inquiry file and argued that the present reference is not maintainable. The workman was chargesheeted properly and after taking reply regular departmental inquiry was held and the Inquiry Officer observed that there is no reason to disbelieve the prosecution witnesses. The workman was heard properly by the punishing authority by giving an opportunity of personal hearing. The workman was proceeded against *ex parte* as he was not present on date fixed. Hence, the inquiry is well reasoned and punishment order dated 24.11.2006 is just, legal and right. He prayed for deciding this issue against the workers' union and in favour of the management.

10. After giving my careful consideration to the rival contentions of both the sides, I find that admittedly the workman was chargesheeted on 18.04.2001 on the allegations that his bus was checked on 09.10.2001 on route No.90-C (Chandigarh-Dehradun) route at Harbatpur by Shri Nachhatar Singh, Shri Waryam Singh and Shri Karam Singh - Inspectors and during the checking it was found that ten passengers, who had boarded the bus at Ponta Sahib to Harbatpur and had paid ₹ 80/- at the rate ₹ 8/- per passenger. The main question is to be seen that the inquiry conducted by the Inquiry Officer is fair & proper, whether the workman was proceeded against *ex parte* rightly or not and whether the workman was given full opportunity of personal hearing.

11. I have minutely perused the inquiry file in which the workman was summoned for appearance before the Inquiry Officer on 04.11.2005 but he was on medical leave and in this regard report was made on 26.10.2005. 04.11.2005 was declared holiday so the case was adjourned to 18.11.2005 but the workman was not served for 18.11.2005. On 18.11.2005 only Shri Nachhatar Singh, Inspector was present and other Inspectors and workman was not present. It is recorded in zimni order dated 18.11.2005 that evidence of retired Inspector was struck off and it was further ordered to verify the medical leave of the workman and the case was adjourned to 24.11.2005. Thereafter no proceedings was recorded by the Inquiry Officer on 24.11.2005. As per record of the inquiry proceedings, it is revealed that the Inquiry Officer have already submitted the inquiry report on 23.11.2005 to the punishing authority though she had adjourned the case for 24.11.2005 for further proceedings.

12. Further from the inquiry report it transpired that the workman has been proceeded against *ex parte* on 18.11.2005 but in zimni order dated 18.11.2005 there is no mentioning about the proceeding against *ex parte* against the workman and recording of statement of the Inspector Shri Nachhatar Singh. Further it is revealed from the inquiry proceedings that inquiry report is alleged to be supplied to the workman through letter No.21249 dated 27.12.2005 but the same was not served upon the workman. Thereafter the workman was summoned for personal hearing. The punishing authority has passed punishment order dated 24.11.2006 without going through the record of the inquiry proceedings and imposed punishment of stoppage of three increments with cumulative effect and limited the suspension period to subsistence allowance only. Further against the order of punishment dated 24.11.2006 appeal was filed by the workman which was dismissed *vide* order dated 21.02.2012. Hence, in my view, inquiry proceeding has not been conducted as per rules rather at the back of the workman. As per Rule 22 of Punjab Civil Services (Punishment & Appeal) Rules, 1970 **that every order, notice and other process made or issued under these rules shall be served in person on the Government employee concerned or communicated to him by registered post.** In this regard, reliance is placed on authority **Makhan Singh Versus The State of Punjab & Others (supra)** wherein Hon'ble Punjab & Haryana High Court has held that to prove the service of orders in terms of Rule 22, mere endorsement on the order is not sufficient. The authority must produce postal receipt, dispatch register and AD. On the other hand, the management had not led any evidence to rebut the stand taken by the workers' union. Though the workman was cross-examined at length by the management but no point favourable to the management could be made out.

13. In the light of discussion made above, it is held that the inquiry proceedings were not conducted as per rules and the workman was not afforded full & fair opportunity to lead his defence during the inquiry proceedings. As such the demand raised in the demand notice dated 30.08.2013 by the workers' union is genuine & justified. Impugned punishment order dated 24.11.2006 / 09.01.2007 and order of the appellate authority dated 21.02.2012 / 14.09.2012 is set aside. The workman is held entitled to consequential benefits after setting aside of above said punishment order. Accordingly, this issue is decided in favour of the workers' union and against the management.

Issue No.2 :

14. Onus to prove this issue was on the management but learned Law Officer for the management has not pressed this issue during the course of arguments. This issue is decided against the management being not pressed.

Relief :

15. In the light of findings on the issue No.1 above, this reference is allowed and answered in favour of the workers' union. Impugned punishment order dated 24.11.2006 / 09.01.2007 and order of the appellate authority dated 21.02.2012 / 14.09.2012 is set aside. The workman is entitled to consequential benefits after setting aside of above said punishment order. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

Dated : 28.07.2021.

(ANSHUL BERRY) ,
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 2nd September, 2021

No. 13/1/9389-HII(2)-2021/9723.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 19/2017, dated 28.07.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT / GENERAL SECRETARY, CHANDIGARH GOVERNMENT TRANSPORT WORKERS' UNION, C/O SHRI D. R. KAITH, CHAMBER NO.104, DISTRICT COURT, SECTOR 43, UNION TERRITORY CHANDIGARH (Workers' Union)

AND

DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, CHANDIGARH
(Management).

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9389-HII(2)-2017/6663, dated 20.07.2017.

AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/9389-HII(2)-2017/6663, dated 20.07.2017 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

"Whether the demand raised in the demand notice dated 30.08.2013 by the President / General Secretary, Chandigarh Government Transport Workers' Union, C/o Sh. D.R. Kaith, Chamber No.104, District Court, Sector 43, Union Territory, Chandigarh And (1) The Divisional Manager, Chandigarh Transport Undertaking, Chandigarh, are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. The President / General Secretary, Chandigarh Government Transport Workers' Union (*hereinafter called "workers' union"*) had served demand notice dated 30.08.2013 in respect of Shri Krishan Chand - Conductor No.305, CTU (*hereinafter called "workman"*) upon the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh (*hereinafter called "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter called "ID Act"*). Upon notice, the workers' union appeared through its representative. Demand notice was ordered to be treated as statement of claim. Case of the workers' union in brief is that the workman was chargesheeted as per charge sheet dated 01.11.1999 on the basis of false report submitted by the checking staff. The workman submitted the reply to the charge sheet and specifically denied the allegations and further stated that the workman had issued full tickets to all the passengers and nobody was without tickets or with less ticket at the time of checking. Two passengers alleged to be found with less ticket to whom the workman had given full tickets and could not show full tickets at the time of checking. The passengers found with less tickets had specifically stated to the checking staff that the workman is not at fault and he had given full tickets to them but they have got the same misplaced somewhere and are trying to locate the same. After some time passengers found the tickets and they produced the same before the checking staff but checking staff refused to change their report and checking staff told that once they have made note on the waybill they cannot change the same. The checking staff took away the un-punched tickets without consent of the workman and made a false report against the workman. The workman also made a representation in this respect on 15.10.1999 to the higher authority against the checking staff. The punishing authority without proper appreciating the reply of the workman ordered for appointment of the Inquiry Officer. The Inquiry Officer had not conducted the inquiry in a fair & proper manner. In spite of the fact that there was no evidence on record the Inquiry officer submitted the inquiry report against the workman. During the inquiry two witnesses namely Shri Nachhattar Singh and Karam Singh appeared as departmental witness and Shri Nachhattar Singh witness stated that about passengers found with less tickets was told to him by Shri Karam Singh, Inspector and Shri Karam Singh, Inspector stated as under in his cross-examination before the Inquiry Officer :—

"It is correct that passengers were trying there best to trace the tickets. It is correct that passengers had told to us that conductor had issued them full tickets but same are not being traced and passengers were feeling disturbed. It is correct that tickets given for load is punched twice in the middle of the tickets apart from stage punch. It is also correct that conductor had given tickets in combination."

In view of the above statements, it is a case of no-evidence. There is no evidence on record to support the allegation against the workman except bald statement of the checking staff. In the absence of any corroboration the statement of the checking staff is hearsay only. The Inquiry Officer also failed to appreciate that the tickets found in the possession of passengers, if properly perused shows that the same relates to passengers as well as on account of load, that support the defence of the workman. The workman also produced alleged passengers found without tickets before the Inquiry Officer and categorically stated that the workman had given full tickets to them but that defence evidence has not been considered at all and no reasoning have been given for rejection of the same. The workman had also placed on record defence statement and there is no cross-examination of the same. Before passing the order of punishment, the workman was not supplied with the copy of inquiry report and no opportunity have been given to make a representation against the findings of the Inquiry Officer. The workman had filed an appeal against illegal order of punishment dated 24.11.2006 / 09.01.2007 to the appellate authority but the appellate authority without taking into consideration the grounds of appeal statement of Shri Karam Singh, Inspector as well as written submission submitted by the workman dismissed the appeal of the workman. The workman was called for personal hearing but no proper hearing was given to him. The order of the appellate authority is illegal and against the Rule 19 of Punjab Civil Service (Punishment & Appeal) Rules. Ultimately, it is prayed that the order of punishment dated 24.11.2006 / 09.01.2007 and the order of the appellate authority dated 21.02.2012 / 14.09.2012 and to release all the monetary benefits to the workman along with interest.

3. The management contested the case of the workman and filed written statement that the workman was chargesheeted *vide* Memo No.10685 dated 01.11.1999 but he was charge sheeted on the correct and exact report dated 11.10.1999 made by the Inspectorate staff with regard to misappropriation of ₹ 123.50 by issuing less tickets to the passengers, who had boarded the bus at Chandigarh for Haridwar and had paid ₹ 166/- at the rate ₹ 83/- each as fare to the workman but he had issued them tickets only the worth of ₹ 42.50 i.e. less by ₹ 123.50. The workman had also admitted his fault on the spot and gave un-punched tickets of 123.50 to the checking staff. The checking staff had also recovered the punched tickets of ₹42.50 from the passengers. The reply to the charge sheet was also filed by the workman which was duly considered by the competent authority but the same was found unsatisfactory so the departmental inquiry was ordered. The Inquiry Officer had conducted the inquiry in a fair & proper manner and there is no flaw in the departmental inquiry. All the prosecution witnesses appeared and deposed their testimony as per version of the prosecution and the workman had also tendered his defence evidence which was duly considered by the Inquiry officer and after considering all the facts record and evidence, the Inquiry Officer recorded his finding whereby the workman was held guilty *vide* the findings of the Inquiry Officer dated 31.10.2005. The witness produced by the workman was a fake witness, who was not a summoned witness and he had not explained all the circumstances during his cross-examination. The witness produced by the workman could not depose his testimony as per version of the workman and he shattered his evidence himself. The workman was duly cross-examined by the Presenting Officer. The findings of the Inquiry Officer was duly supplied to the workman *vide* office Memo No.18919 dated 24.11.2005 through the registered post on the address of the workman available on the file on record i.e. House No.569, Sector 9, Panchkula (Haryana) but the workman had not filed any representation *qua* the findings of the Inquiry Officer. The appeal filed by the workman was duly considered by the appellate authority and disposed off after passing a reasoned and speaking order *vide* order dated 21.02.2012 whereby the appeal of the workman was dismissed. The workman had filed his appeal in the year 2011 whereas as per the Punjab Civil Services (Punishment & Appeal) Rules, the workman was bound to prefer the appeal against the punishment order within stipulated period of 45 days. Other averments of the case of the workers' union were denied and ultimately, it is prayed that the present claim statement be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the demand raised in the demand notice dated 30.08.2013 by the workers' union is genuine & justified, if so, to what effect and to what relief the workers' union / workman are entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. Learned representative for the workers' union closed the evidence. On the other hand, learned Law Officer for the management tendered into evidence attested copy of inquiry file and closed the evidence.

6. I have heard learned representative for the workers' union and learned Law Officer for the management and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No.1 :

7. Onus to prove this issue was on the workers' union and to discharge the same the workers' union has examined the workman as AW1, who deposed that he was chargesheeted as per charge sheet dated 01.11.1999 on the basis of false report by the checking staff. He submitted the reply to the charge sheet and denied the allegations as he had issued full tickets to all the passengers and nobody was without ticket. He further deposed that two passengers alleged to be found with less tickets to whom he had given full tickets and could not show tickets at the time of checking. The passengers found with less tickets had specifically stated to the checking staff that he is not at fault and he had given full tickets to them but they have got the same misplaced somewhere and tried to locate the same. After some time the passengers found the tickets and produced the same before the checking staff but the checking staff refused to change their report. The checking staff took the un-punched tickets without his consent and made false report. He made representation on 15.10.1999 to the higher authority against the checking staff. The punishing authority without appreciating his reply ordered appointment of the Inquiry Officer. He further deposed that the Inquiry Officer had not

conducted the inquiry in a fair & proper manner. There was no evidence on record but the Inquiry Officer submitted the inquiry report against him. During the inquiry two witnesses namely Shri Nachhattar Singh and Shri Karam Singh appeared as departmental witness and Shri Nachhattar Singh stated that about passengers found with less tickets was told to him by Shri Karam Singh, Inspector so this the case of no evidence as there is no evidence to support the allegations against himself. He had produced alleged passenger found without tickets before the Inquiry Officer but defence evidence was not been considered at all and no reasoning was given for rejection of the same. He had placed on record defence statement and there is no cross-examination of the same but the same had not been considered. He also deposed that before passing the order of punishment he was not supplied with copy of inquiry report to make representation against the findings of the Inquiry Officer. He filed the appeal against the illegal order of punishment dated 24.11.2006 / 09.01.2007 but the appellate authority without taking into consideration the grounds of appeal, statement of Shri Karam Singh, Inspector as well as written submission submitted by him. He was called for personal hearing but no proper hearing was given to him. Order of the appellate authority is against the Rule 19, Punjab Civil Services (Punishment & Appeal) Rules.

8. Learned representative for the workers' union has argued that the specific case of the management is that the workman had issued less tickets after collecting full fare but the passengers have admitted before the checking staff as well as before the Inquiry Officer that they were given full tickets so no case is made out for embezzlement. He has placed reliance on citation **State of Haryana & Others Versus Shri Ram Chander, AIR 1976 (P&H) 381**. He further placed reliance on **State of Haryana Versus Bikar Singh, 2001(4) SCT 936 (P&H)**. He prayed for allowing of the present reference and setting aside the impugned order.

9. On the other hand, learned Law Officer for the management tendered into evidence inquiry file and argued that the present reference is not maintainable. A fair & proper inquiry was conducted before passing the punishment order. The reply filed by the workman to the charge sheet was not found satisfactory then a departmental inquiry was ordered against the workman. The Inquiry Officer conducted the inquiry in fair & proper after giving full & fair opportunity to the workman to defend himself. Opportunity of personal hearing was given by the punishing authority before passing order but the workman did not say anything so the punishing authority in exercise of powers conferred ordered to reduce the pay of the workman to the minimum pay scale for a period of five years. Further aggrieved by order of the punishing authority, the workman filed appeal before the appellate authority. The appellate authority also given opportunity of hearing to the workman so order are legal and just. He relied on citation **Union of India etc. Versus Parma Nand etc., 1989 AIR 1185**. He further argued that the present matter may be disposed on merits on record. He prayed for dismissal of the reference.

10. After giving my careful consideration to the rival contentions of both the side, I find that it is admitted case that the bus of the workman was checked on 10.09.1999 and the workman had given tickets to all the passengers but at the time checking two passengers along with luggage were travelling from Chandigarh to Haridwar, to whom the workman had given two full tickets for passengers amounting to ₹ 166/- and one tickets for luggage amounting to ₹ 45.50/-, could not produce full tickets. After the perusal of inquiry file I find that as per version of the checking staff Shri Karam Singh, Inspector, recorded before the Inquiry Officer on 17.08.2005 at page 77 of the Inquiry file, the passengers alleged to be found without tickets have categorically stated that the workman had given two full tickets and one ticket for luggage to them from Chandigarh to Haridwar. There is no statement on record that they were given less tickets. So there is no statement of any person except statement of the checking staff, which also is not corroborated by any other witness. Hence the statement of the witness Shri Karam Singh, Inspector is hearsay statement. Reliance in this regard is placed on citation **State of Haryana Versus Bikar Singh (supra)** wherein the Hon'ble Punjab & Haryana High Court had that **in the absence of the statements of the passengers either before the domestic Tribunal or before the checking staff the plaintiff cannot be held responsible for the embezzlement. In the absence of the statements of the passengers, the statement of the checking staff has no basis.**

11. Further after going through inquiry file it transpired that two Inspectors namely Shri Nachhattar Singh and Shri Karam Singh checked the bus and Shri Nachhattar Singh stated that the alleged passengers with less tickets were found by the Inspector Shri Karam Singh but Shri Karam Singh during cross-examination stated that the workman had issued two full tickets and one ticket for luggage for Chandigarh to

Haridwar but all the tickets were not traceable at the time of checking. Shri Karam Singh also admitted that tickets were issued in combination. So there is no reason to disbelieve the version the stand taken by the workman that he had issued full tickets to the alleged passengers but at the time of checking they could not produce the full tickets and later on found the same. On the other hand, the management has not produced on record any evidence except tendering of inquiry file and had not rebutted the version of the workman at any stage. Rather learned Law Officer for the management has argued that the matter may be disposed off on merits on record. Hence, reliance is made on **State of Haryana & Others Versus Shri Ram Chander (supra)** in which Hon'ble Punjab & Haryana High Court held that hearsay evidence of the checking staff cannot be accepted unless and until the same is supported by any other evidence on record. In this case also hearsay statement of the Inspector is corroborated at all by any other evidence, whereas defence of the workman is fully corroborated by the statement of passengers alleged to be found without tickets as made before the checking staff as well as Inquiry Officer. Authority **Union of India etc. Versus Parma Nand etc. (supra)** relied upon by learned Law Officer for the management is not directly applicable to the present case in hand as the authority is with regard to domain of the punishing authorities *qua* quantum of punishment whereas in the present case in hand the punishment was awarded to the workman on the hearsay statement of the checking staff. In the light of discussion made above, it is held that the demand raised in the demand notice dated 30.08.2013 by the workers' union is genuine & justified. As such the punishment order dated 24.11.2006 / 09.01.2007 and the order passed by the appellate authority dated 21.02.2012 / 14.09.2012 is set aside and the workman is held entitled to consequential benefits after setting aside of above said punishment order. Accordingly, this issue is decided in favour of the workers' union and against the management.

Relief :

12. In the light of findings on the issue above, this reference is allowed and answered in favour of the workers' union. The punishment order dated 24.11.2006 / 09.01.2007 and the order passed by the appellate authority dated 21.02.2012 / 14.09.2012 is set aside and the workman is entitled to consequential benefits after setting aside of above said punishment order. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

Dated : 28.07.2021.

(ANSHUL BERRY) ,
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Parveen Kumari Nimesh *Alias* Parveen Nivesh, W/o Late Rakesh Kumar, R/o # 1454, Ramdarbar, Chandigarh, have changed my name to Parveen.

[513—1]

I, Parveen Sharma, W/o Mahesh Kumar Sharma, R/o 1296/2, Sector 30-B, Chandigarh, have changed my name to Meenakshi Sharma.

[514—1]

I, Sunita Devi, W/o Rajesh Kumar, R/o H. No. 1263/1, Sector 30-B, Chandigarh - 160030 that I have changed my name from Sunita Devi to Sunita.

[515—1]

I, Dil Khush, S/o Jai Kanwar, R/o # 134, Mauli Jagran, Chandigarh, have changed my name from Dil Khush to Dilkhush Mussania.

[516—1]

I, Manjit Kaur, D/o Kesar Singh, R/o 1594, Sector 49-D, Chandigarh, have changed my name to Mankirt Kaur.

[517—1]

I, Janki, W/o Anil Kumar, R/o # 90, Sector 27-A, Chandigarh, have changed my name to Janki Devi.

[518—1]

I, S C Pantola, S/o Mansha Ram, R/o # 846, Phase-2, Ram Darbar, Chandigarh, have changed my name to Swarn Chand Pantola.

[519—1]

मैं, अतिथि (Atithi), D/o कौशल, निवासी मकान नंबर 556, सेक्टर 46A, चंडीगढ़, सूचित करती हूँ कि मैं अपना नाम Atithi अतिथि से बदलकर अदिती (Aditi) रख रही हूँ।

[520—1]

I, Jaswant, S/o Surjeet Ram, R/o # 1079, Morigate, Manimajra, Chandigarh, have changed my name to Jaswant Singh.

[521—1]

I, Babu, S/o Sh. Santoshi, R/o # 1832, Small Flats, Dhanas, Chandigarh, have changed my name to Shreeram.

[522—1]

I, Bamiya, W/o Harjinder Singh Sekhon, R/o House No. 408, Second Floor, Sector 43-A, Chandigarh, have changed my name from Bamiya to Puneet Kaur Sekhon.

[523—1]

I, Ramesh Chander Sharma, S/o Chuni Lal Sharma, H. No. 343/5, Pipliwala Town Manimajra, Sector 13, Chandigarh, declare that Ramesh Sharma and Ramesh Chander Sharma are one and the same person.

[524—1]

I, Anita Kaur, W/o Gurmeet Singh, R/o 644, Sector 32-A, Chandigarh, have changed my name to Anita Devi.

[525—1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."